

**UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

Invisible Fence, Inc.,)	
)	
Plaintiff,)	
)	Case No.: 3:09-cv-00025
v.)	
)	Hon. Thomas W. Phillips
Fido's Fences, Inc.,)	Hon. H. Bruce Guyton
)	
Defendant.)	
_____)	

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Plaintiff Invisible Fence, Inc. ("IFI") moves the Court for entry of summary judgment on Counts I-III and VII of its Complaint and on the counterclaim asserted by Fido's Fences, Inc. ("Fido's Fences"). As established in Plaintiff's Memorandum in Support of its Motion for Summary Judgment, filed contemporaneously herewith, the undisputed material facts conclusively establish that Fido's Fences, Inc. is contractually barred from challenging the validity and enforceability of IFI's INVISIBLE FENCE®, INVISIBLE FENCING®, AND INVISIBLE® trademarks (collectively, the "IFI Marks"). Likewise, the undisputed material facts support the application of the equitable doctrine of licensee estoppel to estop Fido's Fences from challenging the validity and enforceability of the IFI Marks. Accordingly, IFI is entitled to summary judgment as a matter of law and equity on IFI's post-termination breach of contract claim and Fido's Fences' counterclaim. Further, because Fido's Fences is contractually barred and equitably estopped from defending against them, IFI is entitled to summary judgment on its claims for declarations of the validity and enforceability of the IFI Marks.

Further, due to the equities involved in this Motion, Plaintiff also requests an oral hearing.

Respectfully submitted this 31st day of December, 2012.

s/ Ian G. McFarland

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CERTIFICATE OF SERVICE

I hereby certify that on December 31, 2012, a true and correct copy of the foregoing MOTION FOR SUMMARY JUDGMENT was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

s/ Ian G. McFarland